

THE GEORGE WASHINGTON UNIVERSITY
Washington, DC

MINUTES OF THE REGULAR MEETING
OF THE FACULTY SENATE HELD ON
OCTOBER 16, 1998, IN THE MORRIS
ROOM, UNIVERSITY CLUB, MARVIN CENTER

The meeting was called to order by Professor Lilien F. Robinson, Chair of the Executive Committee of the Faculty Senate, at 2:15 p.m. in the absence of President Trachtenberg and Vice President Lehman.

Present: Vice President Lehman, Registrar Selinsky, and Parliamentarian Pagel; Deans Lefton, and Mazzuchi; Professors Agnew, Boswell, Captain, Gallo, Granger, Griffith, Gupta, Harrald, Harrington, Johnston, Loew, McAleavey, Mergen, Peroni, Robinson, Silber, Simon, Wilmarth, and Wirtz

Absent: President Trachtenberg; Deans Futrell, Grossman, Harding, Phillips, Riegelman, and Young; Professors Berkowitz, Cawley, Hoare, Lynch, Nagy, Sodaro, and Yezer

APPROVAL OF THE MINUTES

Professor Griffith referred to Page 6 of the minutes, in the last paragraph, where he had pointed out that there had been a rise in enrollment, but no provision in the campus plan for providing additional classroom space. Vice President Katz had stated that there would be additional classroom space, but that he did not have those exact numbers at that time. Professor Griffith asked Professor Robinson if the Executive Committee has received that information, and she replied that it had not. Professor Griffith suggested that the Senate Executive Committee should make an inquiry because it was important to have that information. Registrar Selinsky noted that that information is being gathered, and Professor Robinson indicated that she would make an inquiry.

The minutes of the regular meeting of September 11, 1998, were then approved as distributed.

RESOLUTIONS

I. RESOLUTION 98/4, "A RESOLUTION TO ENDORSE A REVISED UNIVERSITY COPYRIGHT POLICY"

Professor Wilmarth, Chair, Faculty Senate Ad Hoc Committee on Copyright Policy, explained that the new Copyright Policy would replace, in its entirety, the University's existing Copyright Policy adopted on October 11, 1990. He said that the most important thing about the new Policy is that it reaffirms the

existing general presumption in favor of faculty ownership with respect to all works of authorship. Thus, the new Policy provides that faculty authors will own the copyright for all journal articles, books, instructional materials, creative works, and similar works of authorship, with two limited exceptions. The first exception would arise if the work is considered to be a "work made for hire." In order to fall into this category, the work would have to be specially commissioned pursuant to an agreement between the faculty author and the University, so there would have to be a separate written agreement governing the ownership of copyright and payment of compensation to the faculty author. The second exception, which has a broader application, is the "substantial use" exception. If the faculty member makes a "substantial use" of University resources in creating the work, he or she would be required to assign that work to the University and there would be a sharing of royalties similar to the sharing of royalties that takes place when an invention is assigned to the University under the University Policy on Patents and Scholarly Works. The "substantial use" exception is triggered only if the faculty author has used University resources in a manner which either (a) falls outside the scope of the faculty member's normal job responsibilities or (b) entails the use of University resources that are not ordinarily available to all or virtually all faculty members with comparable status in the same School or Department. Professor Wilmarth noted that the term "substantial use" does not include the use of personal office space, local telephone, library resources, and personal computer equipment incidental to outside activities that are permitted under the "one day a week rule" set forth in Part II of the University's Policy on Conflicts of Interest.

Professor Wilmarth pointed out that Section 6.5 requires the University Administration and the Faculty Senate to review the Copyright Policy once every four years and to determine jointly whether the Policy should be updated or modified. Section 6.5 makes clear that this will be a concurrent process based on consensus between the University Administration and the Faculty Senate. Jointly proposed modifications would be presented to the Board of Trustees for final approval. He noted that Section XV of the Policy on Patents and Scholarly Works would be revised to include a similar procedure for periodic review and joint determination as to whether or not modifications should be made.

In closing, Professor Wilmarth expressed his appreciation to Associate Vice President Carol Sigelman, University Librarian Jack Siggins, and the following faculty members who served with him on the Ad Hoc Committee: Professors John Carson, Kurt Darr, Walter Kahn, Roger Schechter, and Jay Thomas. He then offered to answer any questions.

Professor Gupta said that he was very pleased to read this Policy which he thought was very well done. He had one question

however, about the limitation of ten copies per year of theses and dissertations as noted in Section 3.3 on Page 3, and he wondered what the rationale for that limitation was. Professor Wilmarth replied that the student would have to give written permission for more than ten copies of the dissertation to be distributed within a one-year period. He said the limitation of ten copies, without the student's permission, was suggested by University Librarian Jack Siggins, who felt that, in general, he does not receive more requests than that per year. But should he receive requests for more than 10 copies of a particular thesis, Mr. Siggins thought it only fair to ask the student author for permission.

Professor Wilmarth noted that there were two changes that should be made in Section 4.3 on Page 4. First, due to a typographical error in the fifth line, the word "uses" should be deleted. Second, in the eighth and ninth lines, the words "consulting and other professional" should be struck, so that the language simply says "outside activities." He felt that it is better to let the University Policy on Conflicts of Interest speak for itself and not try to put labels or characterizations in the Copyright Policy with respect to outside activities that are permitted under Part II of the former Policy.

Professor Griffith expressed appreciation for the improvements in the Copyright Policy negotiated by the Ad Hoc Committee, but said he wished to raise two issues for clarification. First, he referred to Section 4.2 on Page 3, which states that a transfer of copyright ownership by a faculty author to the University shall not be required under this Section 4.2 and Section 4.4 if a work has been created with "substantial use" of University resources in accordance with the request or direction of the University, unless the faculty author and the University have entered into a specific written agreement governing copyright ownership with respect to the work. He asked what the status of the copyright (e.g., for a distance learning program) would be in the event of a default in reaching an agreement. Professor Wilmarth replied that the language in that sentence puts the onus on the University not to initiate these programs without first getting an agreement with the faculty author. It is the University's responsibility to work out an agreement beforehand; otherwise, the faculty author would keep the copyright. Professor Griffith asked if a transfer of copyright ownership could ever be required under Section 4.2 without reaching an agreement, and Professor Wilmarth responded that that was correct. If a person makes "substantial use" of University resources without the direction or request of the University, then it falls under the first sentence of Section 4.2 and also under Section 4.4, which allows the University to compel the faculty author to transfer ownership. Professor Griffith said that he was concerned about a situation where a faculty author, for example, embarks on a work of distance learning, and then the University seizes the copyright. He thought that in that situation there should be some agreement with the University and the faculty author

for sharing the copyright. Professor Wilmarth said that where the University properly requires a transfer of the copyright under Section 4.2 and 4.4, there is a mandatory sharing of income under Section 4.5, so that the faculty author would not be cut off from further revenues at that point, but he or she would no longer have control of the work.

Secondly, Professor Griffith noted that there are references in Section 6.4 to the Advisory Council on Research and its subcommittee, the Patents and Scholarly Review Panel. He said that he presumed that both of these bodies include faculty representation and he suggested that a footnote might be added to the Policy indicating how they are constituted. Professor Wilmarth said he did not know the answer to that question and he called upon Associate Vice President Sigelman, who said that the Advisory Council is composed of representatives of each of the Schools and has faculty representation. Professor Robinson pointed out that the Senate recommends faculty representatives to the Advisory Council. Professor Wilmarth said that it might be appropriate to include a parenthetical phrase stating that the Advisory Council on Research includes faculty representatives designated by the Faculty Senate, and Professor Griffith agreed.

Professor Silber inquired about a situation where a faculty member has his or her own work copyrighted and then transfers the copyright to a producer or publisher, for example. The University then decides that the faculty author's copyright really qualified as a University copyright. He then asked if the University would have to go to the producer or publisher in order to try to obtain the copyright. Professor Wilmarth replied that under Section 4.4 a faculty author could be directed to transfer the copyright to the University, even if there is no agreement with the University, and litigation might result where the University could claim that the copyright belonged to it and, therefore, a prior transfer by the faculty author to a third party was not valid. Professor Wilmarth stressed that it is very important that this Policy be given some prominence and publicity so that faculty authors are aware that, if they are using University resources beyond the normal course or in some outside connection, they are in a somewhat uncharted territory and should seek preclearance from the University if there is any question that their activities would fall within either of the definitions of "substantial use." He said that this was probably the most contentious point between the Ad Hoc Committee and the University because the University wanted to assert an expansive claim in the "substantial use" area and the Committee opposed any broad definition of "substantial use." Eventually, he said, the Committee and the University reached what he thought was a reasonable compromise, providing for a limited definition of "substantial use," but the definition did involve a certain amount of gray area.

Professor Wilmarth then moved to amend the first sentence of Section 6.4 of the Policy by inserting a parenthetical phrase after the words "Advisory Council on Research," as follows: "(which will include faculty representatives designated by the Faculty Senate)." The motion was seconded. The question on the amendment was called, and the amendment passed.

The question was called on the original motion, as amended, and Resolution 98/4, as amended, was adopted. (Resolution 98/4, as amended, is attached.)

INTRODUCTION OF RESOLUTIONS

No resolutions were introduced.

GENERAL BUSINESS

I. NOMINATIONS FOR ELECTION TO FACULTY SENATE STANDING COMMITTEES

Professor Robinson moved the nominations for election of the following: Professor Milos Doroslovacki to the Joint Committee of Faculty and Students; Professor Cynthia Harrison to the Committee on Professional Ethics and Academic Freedom Committee; Professors Patrick McHugh and Charles Toftoy to the Committee on Athletics and Recreation; and Professor Laura Briou to the Committee on Faculty Development and Support. The nominations were approved.

II. REPORT OF THE EXECUTIVE COMMITTEE

The Report of the Executive Committee by Professor Robinson, Chair, is enclosed.

III. INTERIM REPORTS OF SENATE COMMITTEE CHAIRS

(a) Athletics and Recreation Committee: Professor Silber, Chair, reported that the University is in the midst of preparing for certification by the NCAA of its athletics program. Over the next few weeks there will be open meetings for the entire University community to discuss the athletics program in preparation for the certification visit which will take place during the week of April 5th. He invited anyone who would like to be involved to check the Hatchet and the University calendar on the WEB page for the places and times of the four town hall meetings which will start on October 27th and will correspond to the following four areas of concern the NCAA will be reviewing: academic integrity as it relates to athletics, fiscal equity, gender and racial equity, and governance.

(b) Professional Ethics and Academic Freedom Committee: Professor Griffith, Chair, reported that the Committee met this morning to consider a report from a subcommittee on a proposal from the administration to revisit the issue of the provisions in the

Faculty Code for tenure by default. Last year the Senate approved the PEA's amendment to the Code and the administration accepted that amendment; however, he said, it now appears that the administration seems to have had second thoughts about it and has come back with some additional changes that it has proposed with regard to this issue. Professor Griffith said that the full Committee has approved a Resolution in response to the administration that will be forwarded to the Executive Committee for consideration. He noted that three other major issues under review by the Committee are the policy and procedures with regard to sexual harassment, proposed changes to the the faculty grievance procedures, and the University Counsel's proposals to rectify the noncompliance of Medical Center practices with the Faculty Code.

TRIBUTE

Professor Harrauld read a tribute to Professor Henry Malcolm Steiner, who retired this past spring. Professor Steiner joined the Department of Engineering Administration in 1976 as Professor of Engineering Administration. He served on the Faculty Senate for five years, having served one year as Chair of the Admissions and Advanced Standing Committee, and two years as Chair of the Physical Facilities Committee. (The tribute is attached.)

BRIEF STATEMENTS (AND QUESTIONS)

Professor Harrington said that probably the Senate had read in the Hatchet about the reorganization of the School of Engineering and Applied Science (SEAS), and therefore he and his colleagues felt that a statement to the Senate should be made regarding the position of the faculty in this matter. At the present time, there are four departments in SEAS - Civil, Mechanical and Environmental Engineering (CMEE) with 14 faculty on campus and 4 or 5 at Langley, VA; Electrical Engineering and Computer Science (EECS) with 35 faculty; Engineering Management (EM) with 9 faculty; and Operations Research (OR) with 4 or 5 faculty.

As a matter of background information, Professor Harrington explained that on October 2, 1998, Vice President Lehman sent a proposal to the School involving the reorganization of the departments into 5 different departments. Engineering Management and Operations Research would be one department, Management and Systems Analysis. The department of Civil, Mechanical and Environmental Engineering would be split into two departments, one would be Civil and Environmental Engineering and the other would be Mechanical Engineering. The largest department, Electrical Engineering and Computer Science, would also be split into two departments, one being Electrical Engineering and the other Computer Science. Professor Harrington said that the departments have spent much time discussing this proposed reorganization and there is a certain level of disquiet by the faculty about the way this reorganization is being handled. In that regard, Professor

Harrington said that he would like to yield the floor to Professor Garris, CMEE Department, Professor Loew, EECS Department, and Professor Harrauld, EM Department to give the Senate an understanding of the faculty's position in this matter.

Professor Garris said that he had been asked by several of his colleagues in the Civil, Mechanical and Environmental Engineering Department, and colleagues outside the department, to bring to the Senate's attention recent events leading to the putative reorganization of the CMEE Department, which the faculty believe is an unconscionable assault on shared governance and good management. Professor Garris said that he would direct his comments primarily to what has occurred in the CMEE Department and let his colleague, Professor Loew, discuss events in EECS, which are very similar in many respects. He then distributed and read a "Report to the Faculty Senate on Reorganization of CMEE Department." (The Report is attached.) Professor Garris then thanked the Senate for the opportunity to present the CMEE Department's view.

Professor Loew said that the Electrical Engineering and Computer Science Department faculty are in complete sympathy with the points made by Professor Garris, as far as faculty involvement is concerned about the ostensible planning process. He described the substantial record of achievement of the EECS Department which received the highest rankings of accreditation for each of its three undergraduate programs, Electrical Engineering, Computer Engineering, and Computer Science. The EECS Department, he said, is substantially recognized academically around the world. Professor Loew said that the EECS Department received a request via the School's Interim Dean to reorganize the EECS Department into two separate departments. Yesterday, the faculty of SEAS passed a resolution establishing a school-wide Strategic Planning Committee whose charge is to recommend to the faculty of the School, based on plans already submitted by the Dean and by the departments (including EECS), the overall strategic plan of the School. He said that the Faculty Code requires that individual units be given an opportunity to make recommendations on any reorganization of those units. Also, he added, there are ordinances of the School that have similar requirements. The EECS Department voted in the great majority to remain as a single unit, and this morning it unanimously adopted a Resolution resolving that any reorganization be deferred until the Strategic Planning Committee of the School reports back to the faculty of the School, and that any reorganization that affects the EECS Department that might be proposed by the Strategic Planning Committee be voted on and accepted by the EECS Department prior to its being submitted for a School faculty vote. Professor Loew said that he was presenting this information to the Senate today so that it is aware of the situation in the event that further action does come forward. (Resolution of the EECS Department dated October 16, 1998, is attached.)

Professor Robinson asked Professor Loew when the Ordinances of the School were put into effect, and Professor Loew replied that he thought the most recent Ordinances were put into effect in 1997. Professor Robinson then asked him if the Ordinances were accepted by the Academic Vice President and he replied that they were accepted. However, he noted that Vice President Lehman pointed out that the final provision of the Ordinances states that nothing in them shall be presumed to contravene the Faculty Code, and it was on this point, Professor Loew said, that there was some difference of opinion as to what extent the faculty has the authority to pass upon such matters, given that the Code requires only consultation. He said that this point might be a matter of concern to the Senate because of the ambiguities that may exist.

Professor Harrald, addressing the other two departments, Operations Research and Engineering Management, noted that they were one department at one time, but separated in 1971. He said that it is apparent that there is not unanimity within the faculty about the processes within the School. The two departments have met together and have unanimously passed a Resolution stating that the OR and EM Departments accept and strongly support Vice President Lehman's October 2, 1998, memorandum entitled "SEAS: A New Beginning." Professor Harrald said that the faculty of these two departments believe that Vice President Lehman has set forth a cogent plan of action in his October 2nd memorandum, which, if followed, has a high probability of moving SEAS forward in a very positive direction. The Resolution urges all members of the SEAS faculty of the other departments to formally endorse and support the Vice President's plan of action, and also urges and requests friends and colleagues in the other SEAS departments to move forward with all deliberate speed with respect to implementing Vice President Lehman's plan. Professor Harrald noted that this Resolution was unanimously passed, but after the SEAS faculty meeting which adopted a different plan. (The Resolution was not distributed.)

Professor Griffith asked if the Ordinances of SEAS provide for some number of faculty to arrange for a meeting of the faculty of the School, with or without the call of the Dean, to consider further the resolutions coming out of their departments. Professor Garris replied that a SEAS faculty meeting was held yesterday with Vice President Lehman in attendance, who listened to the concerns of the various faculty, but, as far as he could determine, nothing came of it, and nothing has changed the timetable set in Vice President Lehman's October 8th memorandum ordering Interim Dean Mazzuchi to start taking action to divide the departments.

Professor Gupta pointed out that he had read the October 8th memorandum from Vice President Lehman and it seemed to indicate to him that this proposed reorganization originated in the Interim Dean's office, and that Vice President Lehman was concurring with the Interim Dean's proposal. Interim Dean Mazzuchi explained that

last summer Vice President Lehman asked him to propose some models for reorganization as a point of discussion. He said that at a Deans' and Chairs' meeting, he proposed a few models, one of which he proposed as a straw model. The Vice President asked him to distribute his presentation at the dean's and chair's meeting to the SEAS faculty for their feedback. That straw model, he said, is essentially what Vice President Lehman is proposing. Professor Robinson asked Interim Dean Mazzuchi to comment on the roundtable discussions that he held last year and also the composition of those roundtables. Interim Dean Mazzuchi said that the roundtables were originally started under Dean Frieder. Members of the faculty were appointed by the Dean to give a cross-section of the departments which included young and senior faculty, Chairs of the departments and Associate Deans, as well.

Professor Griffith made the observation that under the Faculty Organization Plan, the Faculty Senate is explicitly precluded from dealing with an issue that involves only one school, and if it is the intention of the Senate members from SEAS to try to bring this to the Faculty Senate, he thought they would have to show that there is a general faculty issue involved, because the Senate's jurisdiction is limited in that way. Professor Harrington responded that this is a matter of information for the Senate, but he did not think it was an unreasonable request for the Executive Committee to take it up because the faculty members of CMEE and EECS feel that they have not been given the opportunity take part in shared governance, as they really are entitled to do, irrespective of how the Faculty Code has been interpreted by the administration. Professor Garris said that his purpose in addressing this matter was not to ask the Senate for any action, but he thought that what is happening is very disturbing. There is an appalling arrogance and lack of logic here on the part of the administration, he said, to go completely against the wishes of the departmental faculty for unknown reasons as it has never been articulated why the division is appropriate. Professor Garris emphasized that the CMEE Department is willing and able to deal with the reorganization, but it will not make CMEE a better department, rather it will hurt the department. Professor Harrauld noted that he was not a member of the SEAS roundtables, but he did attend all four of the meetings where Vice President Lehman made himself available to the entire SEAS faculty, and he would like to disassociate himself from the comments that were made about "appalling arrogance." He thought that in all of those meetings Vice President Lehman was very open, and he thought that some of the comments of the faculty themselves may have bordered on arrogance and disrespect. Professor Silber commented that it was good for the Senate to be informed, but he thought that this is electioneering and there is no constituency here.

Professor Silber inquired about enrollment figures. Vice President Lehman, having arrived at the meeting at this point, said that the undergraduate target was approximately 1,700 and the

freshman class totaled about 1,668. The overall undergraduate continuing enrollment was down approximately 200 net relative to projections. At the graduate level, the Master's students overall came in somewhat above target as did the number of new doctoral students. The Virginia campus is essentially on target and off-campus is about the same as last year. At Mount Vernon, there were 112 new students, 96 freshmen and 16 transfers. Professor Robinson asked Vice President Lehman if he would provide the final enrollment figures at the next Senate meeting, and he agreed to do so.

Mr. Bernard Demczuk, Assistant Vice President for Governmental Relations, informed the Senate of upcoming events related to city politics and city legislation that affects the University. The University will host a debate October 21st in the Dorothy Betts Marvin Theatre between mayoral candidates Carol Schwartz and Anthony Williams, and that election for Mayor and City Council will take place November 3rd. He said that the interesting race, however, will be for the at-large City Council which is important because it will have an effect on GW legislatively in 1999. On November 10th and 17th and December 3rd and 15th there will be four legislative sessions that will deal with amendments to the University's Comprehensive Plan which means that GW's three or four major projects now on the books will all be examined during these sessions. He stressed that with the election of a new Mayor and at-large City Council, a transition will occur between the old government of the last 20 years and a new kind of government, and he invited faculty, students, and staff to become involved in the various transition teams which will be analyzing health care, public works, transportation, taxes and finance, and economic development.

ADJOURNMENT

Upon motion made and seconded, Professor Robinson adjourned the meeting at 3:30 p.m.



Brian Selinsky
Secretary

**A RESOLUTION TO ENDORSE A REVISED UNIVERSITY COPYRIGHT
POLICY (98/4)**

**WHEREAS, it is in the best interest of The George Washington University
to have a policy on copyrights; and**

WHEREAS, the current policy, adopted in 1990, is outdated; and

**WHEREAS, the Advisory Council on Research, the Faculty Senate
Committee on Research, and the Faculty Senate Ad Hoc
Committee on Copyright Policy have reviewed and approved
the attached revised policy; NOW, THEREFORE**

**BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE
WASHINGTON UNIVERSITY**

- (1) That the Senate endorses the attached Copyright Policy, as
amended; and**
- (2) That the Senate recommends that, upon adoption by the
University, this policy be incorporated by reference to
the Faculty Handbook and that this policy be made
available through the Office of Sponsored Research
and the Medical Center's Office of Research; and**
- (3) That the Senate further recommends that, upon adoption
by the University, this policy be posted on the University
Web site, and noted in the appointment letters for all
faculty (full-time, part-time, and adjunct).**

**Faculty Senate Research Committee
Faculty Senate Ad Hoc Committee on Copyright Policy
September 25, 1998**

Adopted, as amended, October 16, 1998

THE GEORGE WASHINGTON UNIVERSITY

COPYRIGHT POLICY

Revised and Re-Adopted by
The George Washington University Board of Trustees
_____, 1998

INTRODUCTION

The University encourages the creation and publication of scholarly, technical, literary and artistic works as part of its educational mission. Generally, when the Faculty, Librarians or Students, in pursuit of their normal scholarly, professional, or academic responsibilities, including normal use of the University's physical facilities, by their own initiative create copyrightable works, the copyright and any resulting royalties may be claimed by the Faculty, Librarian, or Student as author of the copyrighted work. However, when a work qualifies as a "Work Made for Hire" or when "Substantial Use" of University resources is involved, as defined in the policy below, the copyright in such work shall be owned by or transferred to the University. When Staff or Students create copyrightable works within the scope of their employment duties at the University, the copyright will generally belong to the University. For Faculty and Librarians, the University only claims ownership of the copyright if the work qualifies as a Work Made for Hire, or if the work's creation required Substantial Use of University resources.

Description of Federal Copyright Law

Under federal copyright law, copyright protection subsists in "original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device." The copyright exists from the moment of creation of the work. The following categories of material, whether published or unpublished, may be subject to copyright protection: (a) literary works, such as books, journal articles, textbooks, laboratory manuals, lectures, or computer programs; (b) musical works, including any accompanying words; (c) dramatic works, including any accompanying music; (d) pantomimes and choreographic works; (e) motion pictures and other audiovisual works, such as films, video-tapes, videodiscs or multimedia works; (f) pictorial, graphic, and sculptural works; (g) sound recordings, such as audiotapes, audio cassettes, phonorecords or compact discs; and (h) architectural works.

Copyright protection does not cover the ideas or concepts embodied in a work, but rather the manner of expression. In general, as the law exists in 1998, for works created after 1978 the term of the copyright is the life of the author plus 50 years, or in certain circumstances, the shorter of 75 years from the year of the first publication or 100 years from the year of creation. Subject to certain limitations, the owner of a copyright has the exclusive right to do and to authorize the following: (a) to reproduce copies of the copyrighted work; (b) to make derivative works based on the copyrighted work; (c) to distribute copies of the copyrighted work; (d) to perform the copyrighted work publicly; and (e) to display the copyrighted work publicly.

COPYRIGHT POLICY OF THE GEORGE WASHINGTON UNIVERSITY

1. DEFINITIONS

1.1 "Faculty" means all those individuals listed in Part I, Section B of the Faculty Code.

1.2 "Librarians" means all those individuals receiving a letter of appointment from the Vice President for Academic Affairs or that individual's designee to a professional librarian position, with or without compensation from the University, and whether full-time, research, part-time, visiting, or other status.

1.3 "Staff" means all those individuals, in graded or ungraded positions, or on wage account status, whether full-time, part-time, or other status, receiving compensation from the University as employees, other than Faculty and Librarians.

1.4 "Students" means all individuals associated with the University in active student status as defined by formal registration, or on approved leave of absence status, whether full-time or part-time, whether or not holding a fellowship, a teaching assistantship, a research assistantship, or equivalent award, and whether or not receiving salary, wages, or a stipend.

1.5 The terms "Sponsored Research" and "Sponsored Project" shall refer to research activities or other work performed by Faculty, Librarians, Staff or Students under sponsorship from any agency, party or parties external to the University, pursuant to an agreement between such agency or party and the University, which research activity or other work may result in the creation of copyrightable works.

2. SCOPE AND ORDER OF PRECEDENCE

2.1 Scope.

This Policy applies to all Faculty, Librarians, Staff and Students of the University.

2.2 Order of Precedence.

In case any individual subject to this Policy has dual or multiple status in more than one defined category, any questions under this Policy shall be determined under the provisions applicable to the status of the individual with respect to the activity in question, if that status is clear. In case of joint or unclear activity, the order of precedence shall be to apply the provisions applicable to Faculty, Librarians, Students and Staff in that order, and in case of any remaining doubt, questions shall be resolved in a manner that gives greater rights to the individual. Any disputes under this section, as for other disputes under this Policy, shall be resolved in accordance with Section 6.4 of this Policy.

3. CATEGORY I: INDIVIDUAL WORKS, THE COPYRIGHT OF WHICH WILL NORMALLY BELONG TO THE FACULTY, LIBRARIANS, STAFF OR STUDENTS OF THE UNIVERSITY

3.1 Scholarly Works.

a. The University makes no claim of ownership of copyright in works of authorship created by members of the University community, unless such works qualify as "Works Made for Hire" or involve "Substantial Use" of University resources as defined below, or unless such works are created within the scope of a Sponsored Project under an agreement which provides for ownership of copyright by the University or a third party, in which case the Sponsored Project agreement shall take precedence. Sponsored Research, without a specific agreement for copyright, shall be considered scholarly work and the copyright in such works shall belong to the author (s), not to the

University.

b. The University strongly encourages Faculty and Librarians who assign their copyright rights in scholarly publications to outside publishers to retain the royalty-free rights of reproduction and instructional use for themselves and for the University. Upon request, University administrators and legal counsel will provide assistance relating to assignment agreements and such retention-of-rights clauses.

3.2 Textbooks and Instructional Materials.

The University makes no claim of ownership of copyright in textbooks or other published instructional materials, including computer assisted and multimedia materials, unless said materials have been made with Substantial Use of University resources or qualify as Works Made for Hire as defined below.

3.3 Theses and Dissertations.

Copyright ownership in a thesis or dissertation prepared by a Student toward degree requirements shall remain with the Student, provided that, unless otherwise agreed in writing, by submitting the work for credit or degree requirements, the Student shall automatically be deemed to have granted a non-exclusive, worldwide, royalty-free license to the University (i) to make available for viewing to the University community through electronic or other means the entire thesis or dissertation; (ii) to make available to the broader public a limited number of copies of such thesis or dissertation, for which the University will make reasonable efforts not to reproduce and distribute in excess of ten copies per year of each such thesis or dissertation; and, (iii) to make a summary or abstract available to the University community and the public by electronic means without limitation on quantity of access or copying.

4. CATEGORY II: SHARED RIGHTS

4.1 Policy Statement on Prior Approval.

Faculty and Librarians may make Substantial Use of University resources in creating copyrightable works within the scope of their job duties, with any usual or necessary approvals relating to the resource usage. Staff and Students, and Faculty and Librarians intending to work outside the scope of their University duties, shall not make Substantial Use of University resources to create copyrightable works without advance permission from, and an appropriate written agreement signed by, the relevant Vice President or designee. Failure to obtain such approval shall cause any copyrightable work created to be treated pursuant to Section 4.2.

4.2 Works Made with "Substantial Use" of University Resources.

Ownership of copyright in materials created by Faculty, Librarians, Staff or Students with "Substantial Use" of University resources shall be transferred by the author(s) to the University in accordance with Section 4.4, unless the University agrees, in writing, to waive or alter its rights. Notwithstanding the foregoing sentence, a transfer of copyright ownership by a faculty author to the University shall not be required under this Section 4.2 and Section 4.4 if a work has been created with "Substantial Use" of University resources in accordance with the request or direction of the University, unless the faculty author and the University have entered into a specific written agreement governing copyright ownership with respect to the work.

4.3 Definition of Substantial Use.

"Substantial Use" of University resources is that use of University laboratory, studio, audio, audiovisual, video, television, broadcast, computer, computational or other facilities, resources and Staff or Students which: (i) falls outside the scope of the Faculty member's or Librarian's normal job responsibilities or the Student's academic program or (ii) entails a Faculty member's or Librarian's use ~~uses~~ of such resources that are not ordinarily available to all or virtually all Faculty members with comparable status in the same School or Department or to all or virtually all similarly situated Librarians. The term "Substantial Use" does not include the use of personal office space, local telephone, library resources and personal computer equipment incidental to outside ~~consulting and other professional~~ activities that are permitted under Part II of the University's Policy on Conflicts of Interest.

4.4 Transfer of Rights to University.

Where a work subject to copyright is created with Substantial Use of University resources as provided above, unless otherwise agreed in writing, each Faculty member, Librarian, Staff and Student author of such work shall execute an irrevocable written transfer, assignment or license to the University, in a form approved by the University, which provides for the following, unless otherwise disclosed by the Faculty member, Librarian, Staff or Student and, where relevant, agreed to by the University:

- a. that the author transfers all right, title and interest in and to the copyright to the University;
- b. that the work is an original work created by the author, that there are no known joint authors (or that any joint authors are or have been identified in writing to the University), and that the rights in such work have not been transferred, licensed or assigned to any other entity;
- c. that any preexisting materials, whether copyrighted or in the public domain, reflected in the subject work, are or have been identified in writing to the University;
- d. that the author shall not distribute any copies of the work without the University's permission and that any copies of the work distributed by or with the authority of the author shall bear an appropriate copyright notice, and notice of the University's interest therein; and
- e. that the author shall execute any further documents, and provide any additional information and cooperation necessary to obtain registration or deposit of the copyright, or to enforce the rights in the copyright.

4.5 Allocation of Royalties for Copyrights Transferred to the University.

Where ownership of a copyright is transferred to the University as provided in Section 4.4, unless otherwise agreed in writing, any income derived from publication, distribution, performance, display or sale of the work or derivative works, or licensing of any rights in the copyright, shall be allocated as follows:

- (a) University costs associated with registration or deposit of the copyright, and any costs incurred by the University in connection with publication, distribution, performance, display or sale of copies of the work or licensing or enforcement of any rights in the work shall first be reimbursed;
- (b) The remainder of any revenues after payment of the above costs shall be deemed "Net Income" and divided for the term of the copyright in the following manner:

Net Income Distribution

	Author	Author's Department	Author's School	Research Office*
First \$100,000/yr	50%	20%	10%	20%
Above \$100,000/yr	40%	20%	15%	25%

* Associate Vice President for Research and Graduate Studies (non medical) or Associate Vice President for Research (medical) -- to be used for the purpose of promoting scholarship in the University

5. CATEGORY III: WORKS MADE FOR HIRE, THE COPYRIGHT OF WHICH WILL NORMALLY BELONG TO THE UNIVERSITY

5.1 Ownership of Copyright in a "Work Made for Hire."

Copyright in a "Work Made for Hire" as defined below shall be owned by the University.

5.2 Definition of "Work Made for Hire."

A "Work Made for Hire" is:

(a) a work prepared by a Staff member or Student employed at the University within the scope of employment; or

(b) a specially-commissioned work created by a Faculty member or Librarian within the scope of employment, as set forth in a specific written agreement between the Faculty member or Librarian and the University.¹

5.3 Consideration for Works Made for Hire.

Where a work subject to copyright is created as a "Work Made for Hire" as defined above,

¹ Although not strictly within the scope of this Policy, under federal law and University practice a "work made for hire" may also include a work created by any non-employed individual that is specially ordered or commissioned by the University, and subject to a written agreement that it is a work made for hire, that is: (i) part of a contribution to a collective work; (ii) part of a motion picture or other audiovisual work; (iii) a translation; (iv) a supplementary work (meaning a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes and indexes); (v) a compilation; (vi) an instructional text (meaning a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities); (vii) a test, or answer material for a test; or (viii) as an atlas. It is the University's policy and practice to require transfer of copyright rights from third parties to the University for all such specially-ordered or commissioned works.

the normal salary or other remuneration paid to the Faculty member, Librarian, Staff member or Student shall ordinarily constitute full consideration for the creation of the copyrighted work, unless, for specially-commissioned works under section 5.2(b), additional consideration is agreed upon by an authorized University official in writing in advance.

6. COPYRIGHT ADMINISTRATION

6.1 Disclosure of Category II and Category III Copyrightable Materials.

Whenever any Student or Staff member intends to create a copyrightable work that is outside the scope of the academic program or employment of a Student or Staff member and that may involve Substantial Use of University resources, that person shall disclose such intent to the Associate Vice President for Research and Graduate Studies (non-medical) or to the Associate Vice President for Research for the Medical Center, or their designees, in the form and manner approved by the University, to obtain in advance a tentative decision of the relevant official on whether the work will be a Work Made for Hire or will involve Substantial Use of University resources. In addition, if at any time a Student, Staff member, Faculty member or Librarian creates a copyrightable work that is a Work Made for Hire or involves Substantial Use of University resources, and such work or use of University resources has not received advance approval from the appropriate official, or if the basis on which an advance approval was given has materially changed, the Student, Staff member, Faculty member or Librarian shall make a disclosure to and seek a decision from the appropriate official on whether creation of the work was a Work Made for Hire or involved Substantial Use of University resources. Failure to comply with this Section 6.1 may result in the forfeiture of the individual's rights under this policy. Such cases will be reviewed by the Associate Vice President for Research and Graduate Studies and additional sanctions consistent with other Faculty, Staff, Librarian or Student policies may be imposed in accordance with such policies.

6.2 Registration, Deposit, Disposition and Protection of Copyright.

Registration, deposit, disposition and protection of all copyrights owned by the University or in which the University has rights hereunder shall be accomplished in accordance with the University's directions, unless the University elects in writing to waive such rights with respect to any work and to transfer such rights to the author.

6.3 Copyright Administrator.

The Associate Vice President for Research and Graduate Studies shall be the Copyright Administrator for the University. The Copyright Administrator shall ensure that the University's Copyright Policy is enforced and will supervise the preparation of copyright registrations and deposits for Category II and Category III copyrightable works, maintain records, and provide advice to Faculty, Librarians, Staff and Students on copyrights and application of this policy.

6.4 Advisory Council.

The Advisory Council on Research (which will include faculty representatives designated by the Faculty Senate) will serve to assist the Copyright Administrator in the negotiation of copyright matters, the evaluation of ownership and the disposition of royalty income, primarily through its subcommittee, the Patent and Scholarly Works Review Panel. Disputes on copyright matters, including the interpretation of this Policy, shall be referred to the Patent and Scholarly Works

Review Panel for review and recommendation. The Associate Vice President for Research and Graduate Studies (nonmedical) or the Associate Vice President for Research for the Medical Center shall make a ruling on the dispute. Any appeal of a ruling by either official will be heard by the Vice President for Academic Affairs, who will then make the final ruling.

6.5 Periodic Review.

The University administration and the Faculty Senate shall review this policy at least once every four years and, following such review, shall jointly determine whether modifications to the policy are necessary or desirable to best serve the interests of the University and its Faculty and Librarians, Staff, and Students. Proposed amendments that result from such review and joint determination shall be presented by the Vice President for Academic Affairs to the Board of Trustees for final approval.

6.6 Reference to Official Titles.

Each reference in this Policy to the official title of a University official or body shall be deemed to include the successor to any such official or body.

Originally adopted by the Board of Trustees October 11, 1990
Revised _____, 1998

ADDITIONAL, PROPOSED CONFORMING CHANGES TO PATENT POLICY

1. Modify section VII.A on Scholarly Works, as follows:

All rights in scholarly books, articles and other publications, artistic creations, literary manuscripts, visual and auditory creations, and musical works, irrespective of their medium of storage or presentation, are granted to the faculty, librarians, staff and students who are the authors, except for "Works Made for Hire" and works made with "Substantial Use" of University resources (as such terms are defined in the University's Copyright Policy). The former items are meant to include computer programs, computer software, and databases that are accessory to or part of a scholarly text. Computer programs that are written for the primary purpose of educational learning and testing are excluded from classification as Inventions, Discoveries, Technologies, and Innovations. [See also The George Washington University Copyright Policy.]

2. Supplement definition in Section II of "Inventions", "Discoveries", "Technologies", and "Innovations" as follows:

"Inventions", "Discoveries", "Technologies", and "Innovations" are terms that are meant to cover tangible or intangible inventions, including any process, machine, manufacture, composition of matter, or improvement thereof, which is or may be patentable, whether or not reduced to practice. These terms are also meant to cover tangible research and development results whether or not patentable. Such results include, for example, computer programs, circuit designs of all types, data bases, technical and design drawings, biogenic materials, novel varieties of plants, chemically synthesized molecular systems, and other creations. Such tangible results may also be subject to the University Copyright Policy, and to the extent of any overlap, the intent is to treat such items first under the Patent Policy, and then if not patentable to treat them under the Copyright Policy.

3. Amend Section XIII as follows:

Disputes on patent matters, including the interpretation of this Policy on Patents and Scholarly Works, shall be referred to the Patent and Scholarly Works Review Panel for review and recommendation. Based on the Panel's recommendation, the Associate Vice President for Research and Graduate Studies (non medical) or the Associate Vice President for Research for the Medical Center shall make a ruling on the dispute. Any appeal of a ruling by either official will be heard by the Vice President for Academic Affairs, who will then make the final ruling.

4. Amend Section XV of the Patent Policy as follows:

The University administration and the Faculty Senate shall review this policy at least once every four years and, following such review, shall jointly determine whether modifications to the policy are necessary or desirable to best serve the interests of the University and its Faculty and Librarians, Staff, and Students. Proposed amendments that result from such review and joint determination shall be presented by The Vice President for Academic Affairs to the Board of Trustees for final approval.

5. Throughout, change Director of the Medical Center Office of Research to Associate Vice President for Research for the Medical Center.

HENRY MALCOLM STEINER

Henry Malcolm Steiner joined the Department of Engineering Administration in 1976 as Professor of Engineering Administration.

Professor Steiner holds a doctorate in Civil Engineering and Engineering Economics from Stanford University. He taught at Stanford University and the University of California at Berkeley as a Visiting Professor, Escuela Superior de Administracion de Negocios (ESAN) in Peru, the University of Texas at Austin, and The George Washington University. His specialty is Engineering Economics and his books on that subject have become popular texts at many universities.

A highly respected professor and acknowledged expert on engineering economy, especially the economics of transportation, Dr. Steiner has been a consultant to several major development agencies, including The World Bank. His dedication to his profession, to academia, and to high standards of scholarship is unsurpassed.

For his commitment and devotion to teaching, scholarship, and the well-being of students, The George Washington University hereby bestows the title of Professor of Engineering Management Emeritus on Henry Malcolm Steiner with all the rights, duties and privileges pertaining thereto.

Stephen Joel Trachtenberg
President

May 17, 1998

*The tribute was prepared by Professor Murphree and read by Professor Harrauld at the Faculty Senate meeting on October 16, 1998.

Report to Faculty Senate
on
Reorganization of CMEE Department

Good afternoon ladies and gentlemen.

I have been asked by several of my colleagues in the Civil, Mechanical, and Environmental Engineering (CMEE) Department, and colleagues outside the department, to bring to your attention recent events leading to the putative reorganization of the CMEE Department. We believe that what is happening is an unconscionable assault on shared governance and good management. I will direct my comments primarily to what has occurred in the CMEE Department and let my colleague discuss the events in EECS, which is very similar in many respects.

Before I start, however, I would like you to know what kind of faculty constitute the CMEE Department. The following are some highlights over the past few years:

- Both ME and CE Programs have received the highest level of accreditation from Accreditation Board for Engineering and Technology (ABET).
- CMEE faculty are highly research oriented in both sponsored and non-sponsored research. In FY98, the department generated an estimated \$2.6 Million which ranks it at the top of SEAS and near the top of GWU. The faculty are highly published and recognized world-wide.
- Undergraduate advising is a high priority in CMEE and Professor Haque received the high honor of being awarded the National Civil Engineering Advisor of the Year Award for 1997 of ASCE.
- Harold Liebowitz was elected President of the National Academy of Engineering.
- Irving Shames' and Roger Kaufman's textbooks are used worldwide in engineering schools in multitudinous languages and have broad impact on engineering education today.
- The National Crash Analysis Center at the Virginia Campus is recognized as a unique national resource whose capabilities are sought nationwide by industry and government alike.
- Professor Shen has received the highly prestigious NSF CAREER award.
- Professor Manzari and Sarkani have received a major research equipment grant from NSF which will provide our Virginia Campus with geotechnical engineering resources unavailable elsewhere.
- Undergraduate student Brad Montegue, with the guidance of Professor Roger

Kaufman has been awarded the distinguished B. F. Goodrich Prize for student inventors.

- The Solar Car Team, under the direction of Professor Bedewi, achieved national and international acclaim for its accomplishments in various competitions and brought wide recognition to GW.

Etc., etc., etc.

Suffice it to say that the CMEE faculty are constituted by a group of highly respected and accomplished career professional engineers who are intimately involved with research and education at the national and international level.

In the Fall of 1997, Vice President Lehman told us that he earnestly wanted to help SEAS advance "to next level" and called upon us to embark on a Strategic Planning Process. He also instituted a series of "round-table meetings" to discuss issues selected by him.

We embraced this opportunity with great alacrity. After all, having a new Vice President for Academic Affairs devoting so much time and interest towards our needs and aspirations was exhilarating. At this time, in the wake of Dean Frieder's resignation, many of us were disappointed that VP Lehman was postponing the Dean Search, but we were willing to accommodate this cheerfully despite our reservations on its wisdom.

In the CMEE Department, we pursued the strategic planning process with dedication. We broke up into subcommittees which explored market basket institutions, local institutions, undergraduate and graduate programs, research opportunities, market trends, educational trends. We extended our network and inquired into the strategies of other institutions. We identified windows of opportunity, current strengths and current needs. We also did a considerable amount of self-examination identifying weakness, areas for improvement, and resource requirements.

An area that we particularly devoted time to, at VP Lehman's request, was the issue of reorganization. We spend hundreds of person-hours analyzing the pro's and con's in light of our present situation.

One crucial factor, that I should point out, is that the last effort by the administration to "help" SEAS was a disaster for our department. In the "buyout"

of 1996, the CMEE Department lost 6 valuable faculty. No replacements have been authorized. As a result, we have been forced to rely on visiting and research faculty to teach our courses, while the administrative burden on full-time faculty has been onerous. In response to this difficult situation, the CE and ME faculty have been very skillful in pooling resources and maintaining our programs at a respectable level.

Without going into the details, after exhaustive analysis, based on our intimate understanding of our students, our faculty, our resources, and our capabilities, we came to the very considered judgement that we should remain together until such time that the number of faculty in both Civil and Mechanical Engineering is again restored to enable two strong independent departments to exist. We articulated this in our strategic plan, we articulated it in the round-table meetings, and we articulated it at every available opportunity. We were chagrined to find that our strategic plans were virtually trashed, and that the round-table meetings appeared to be nothing more than group depositions used for the purpose of harvesting verbiage friendly to the administration's prearranged agenda. Thousands of faculty-hours were wasted in this fruitless exercise presented under the guise of 'faculty consultation'.

Despite the strong consensus of the CMEE Department faculty to the contrary, Vice President Lehman commanded Interim Dean Mazzuchi on October 2 to implement this reorganization which would divide CMEE. On October 8, Interim Dean Mazzuchi then sent a memo to the SEAS Faculty instructing us to declare which of the new departments we wished to join.

The CMEE Faculty met on October 14 to discuss our response to these memoranda. A resolution stating that because of the synergies and mutually beneficial relationships that have been forged over the years, the department should remain united. The resolution specifically articulated, through twenty WHEREAS clauses, the logic for our decision. The resolution was overwhelmingly passed by the CMEE Faculty.

What should be of concern to the Senate is the low esteem that the administration clearly has for the knowledge and wisdom that the Faculty can bring to bear in solving our problems. Despite the thousands of faculty-hours diligently devoted by a highly distinguished group of professionals, the administration seems to have no compunction in disregarding their considered opinions. What also should

be of concern to the Senate is the disregard of the administration for the importance of faculty morale in elevating one's department "to the next level". The low morale and high cynicism that permeates CMEE, brought on by the administration's actions, will be a major handicap for us in the future.

Thank you for the opportunity to present our view. I would be most happy to answer any questions.

Presented by :

Charles A. Garris, Jr.
Professor of Engineering
CMEE Department



DEPARTMENT OF CIVIL, MECHANICAL, AND ENVIRONMENTAL ENGINEERING

October 13, 1998

To: Interim Dean Thomas A. Mazzuchi
From: Professor T. G. Toridis, Chair CMEE Department *T. G. Toridis*
Re: Reorganization of CMEE Department

We have received your Memorandum of October 8, 1988. This comes as a surprise to us for a number of reasons.

The matter of reorganization of SEAS and the contents of Vice-president Lehman's memorandum were under discussion in the SEAS Faculty meeting of October 7, 1998 when the meeting was suspended due to lack of quorum and it was to be continued at the next available date convenient for you. Your memorandum, by preempting the discussion by the faculty is therefore contrary to the principle of shared-governance of the faculty of school at large and of our department in particular.

In the CMEE Department, we acted promptly after receiving Vice President Lehman's memorandum of October 2, 1998. Our department has considered the issue of splitting into two independent departments and has decided it is not in the best interests of the school. It is unfortunate that our views on this matter of reorganization are being ignored.

The Ordinances of the School of Engineering and Applied Science mandate that prior approval of the Faculty of the Department is required before creating new divisions in our department. Section I.F of the Ordinances of the School of Engineering and Applied Science (Amended July 18, 1997) states:

"Formal divisions within the School or the Departments may be established after prior approval by the Faculty of the School, or the Faculty of the appropriate Departments, respectively."

In view of this, your memorandum would be in violation of the ordinances of our School.

We are anxious to work towards the betterment of the School of Engineering but we are convinced that this can be done most effectively in the context of a unified CMEE Department.

Cc: Professor Lilien Robinson, Chair Executive Committee of the Faculty Senate
Attachments: Memorandum from Interim Dean, Thomas A. Mazzuchi, SEAS dated October 8, 1998.
Ordinances of the School of Engineering and Applied Sciences.

RESOLUTION:

WHEREAS, the current structure of the CMEE Department results in economies of scale producing benefits to both the Civil and Mechanical programs by encouraging symbiotic program structures and by eliminating duplications of courses, administration, and staffing and

WHEREAS, The CMEE Department has been able to attain a six year accreditation under its current departmental structure and

WHEREAS, The CMEE Department has been successful in increasing both funded and unfunded research and

WHEREAS, The CMEE Department has been successful in increasing income from research and

WHEREAS, The CMEE Department has been successful in increasing the quality of its teaching programs through innovative sharing of expertise between the Civil and Mechanical Engineering Faculties and

WHEREAS, the issue of departmental reorganization was debated in great detail by the CMEE Faculty during our strategic planning exercise beginning in November 1997 and

WHEREAS, the CMEE Faculty concluded that reorganization by splitting the CMEE Department would have an extremely detrimental effect on teaching, research, morale, and finances and

WHEREAS, division of the CMEE Department might put future accreditation in jeopardy since the number of faculty members and of students in divided Civil and Mechanical Engineering programs would make it difficult to achieve excellence and

WHEREAS, division of the CMEE Department might alienate students due to poorer, duplicative, under-populated and often cancelled courses taught by teaching assistants and part-time faculty (replacing full-time faculty teaching in the other curriculum or serving as Department Chairs) student recruitment will decline and

WHEREAS, division of the CMEE Department would require more faculty time diverted to administrative and committee duties at the expense of teaching and research and draining faculty enthusiasm and

WHEREAS, division of the CMEE Department would require additional staff and office space, thereby increasing administrative costs and lowering productivity of both faculty and staff and

WHEREAS, division of the CMEE Department would result in a loss of the synergism and economies of scale that exists between the current closely allied curricula and

WHEREAS, division of the CMEE Department would result in an immediate need to recruit additional faculty in key areas in order to retain accreditation and

WHEREAS, The Ordinances of the School of Engineering and Applied Science state in Section I.F that prior approval of the Faculty of the Department is required before formal divisions can be established within the Department and

WHEREAS, assignment of faculty to Civil and Mechanical engineering faculties must be done based on programmatic needs of the various curricula and after due consideration of long-term needs by the Faculty Personnel Committee and not for administrative reasons and

WHEREAS, divided Civil and Mechanical Engineering programs would be weaker and would have difficulty competing with George Washington University's market basket institutions and

WHEREAS, the faculty of the CMEE Department is already working as diligently and effectively as possible for the betterment of the School of Engineering and Applied Science and

WHEREAS, a change of organizational structure to an independent Mechanical Engineering Department would not be viable until such time as we have replaced the four essential Mechanical Engineering Faculty (in the areas of Fluid and Thermal Sciences and Design and Manufacturing) lost to the Faculty Buyout of 1995 and

WHEREAS, a change of organizational structure to an independent Civil Engineering Department would not be viable until such time as we have replaced the two essential Civil Engineering Faculty (in the areas of Fluid Mechanics and Structures) lost to the Faculty Buyout of 1995 and

WHEREAS, the CMEE Faculty feels eventually it would be beneficial to all concerned to split into individual departments but only once our individual Civil and Mechanical Engineering Faculties have achieved sufficient numbers to be recognized for excellence in all the areas needed for accreditation and to be insured of viability as separate entities, each competitive with those in market basket institutions

**BE IT THEREFORE RESOLVED BY THE FACULTY OF THE
CIVIL, MECHANICAL, AND ENVIRONMENTAL ENGINEERING
DEPARTMENT**

THAT:

We consider the current organizational structure of a combined Civil and Mechanical Engineering Department to be optimal under present conditions.

To reorganize at the present time would be a mistake damaging to teaching and to research. It would be fiscally detrimental. It would not serve the best interests of The George Washington University, the School of Engineering and Applied Science, the students, the administration, or the faculty.

THE GEORGE WASHINGTON UNIVERSITY
School of Engineering and Applied Science

**DEPARTMENT OF ELECTRICAL ENGINEERING AND COMPUTER
SCIENCE**

WHEREAS, the faculty of the Department of Electrical Engineering and Computer Science have received a request from the Vice President for Academic Affairs via the Interim Dean of the School of Engineering and Applied Science to re-organize the Department into two separate departments, and

WHEREAS, the faculty of the School of Engineering and Applied Science have passed a resolution establishing a School-wide Strategic Planning Committee whose charge is to recommend to the faculty of the School, based on Strategic Plans already submitted by the Interim Dean and the department, and overall Strategic Plan for the School, and

WHEREAS, the Faculty Code requires that individual units be given an opportunity to make recommendations on any re-organization of those units proposed, and

WHEREAS, the Department of Electrical Engineering and Computer Science has previously voted in the great majority to remain as a single unit,

BE IT HEREBY RESOLVED BY THE FACULTY OF THE DEPARTMENT OF ELECTRICAL ENGINEERING AND COMPUTER SCIENCE THAT,

- (i) Any re-organization be deferred until the School-wide Strategic Planning Committee reports back to the faculty of the School, and**
- (ii) Any re-organization affecting the Department proposed by the Strategic Planning Committee be voted on and accepted by the Department prior to it being submitted for a vote at the School Faculty Meeting, and**
- (iii) Subject to such acceptance, after all existing EECS Faculty members have voluntarily redistributed themselves into the new departments, further faculty additions to these departments be acted upon in accordance with the Rules and Procedures of the School of Engineering and Applied Science.**

Adopted unanimously, October 16, 1998

REPORT OF THE EXECUTIVE COMMITTEE

October 16, 1998

Professor Lilien F. Robinson, Chair

On behalf of the Executive Committee, I would like to report on the following matters.

1. NONCONCURRENCES

As reported last month, the Executive Committee received three nonconcurrences. A review of one of these cases from the Columbian School has now been completed and the Executive Committee has submitted its report, in which we indicated that the Dean did not have compelling reasons. The Executive Committee awaits the department's response. The second case, also in Columbian School, has just been completed in its first phase and a written report is pending. The third case, in the Business School, has not yet been reviewed.

2. GRIEVANCE

Today, the Executive Committee received a grievance from the School of Business. No action other than receiving it has been taken.

3. FACULTY ASSEMBLY MEETING

A Faculty Assembly meeting has been called for Thursday, November 19, 1998, for the introduction of newly-appointed faculty members. The Assembly will meet at 2:30 p.m. in the Elliott Room, University Club, Third Floor, Marvin Center. I hope that you will urge people to attend this.

4. UPCOMING MATTERS

A report on the Y2K problem will be presented by the Office of the Vice President and Treasurer at the November 13th Senate meeting.

5. ANNOUNCEMENTS

The next meeting of the Executive Committee is on October 30th. Please submit resolutions or reports for the agenda of the November 13th Senate meeting prior to the 30th.

THE GEORGE WASHINGTON UNIVERSITY
Washington, DC

The Faculty Senate

October 5, 1998

**The Faculty Senate will meet on Friday, October 16, 1998, at
2:10 p.m. in the Morris Room, University Club, 3rd Floor, Marvin Center.**

AGENDA

- 1. Call to order**
- 2. Approval of the minutes of the regular meeting of September 11, 1998,
as distributed**

3. Resolutions:

**A RESOLUTION TO ENDORSE A REVISED UNIVERSITY COPYRIGHT
POLICY (98/4); Professor Wilmarth, Chair, Faculty Senate Ad Hoc
Committee on Copyright Policy (Resolution 98/4 with Copyright Policy
attached)**

4. Introduction of Resolutions

5. General Business:

**(a) Nomination for election of Professor Milos Doroslovacki to the Joint
Committee of Faculty and Students, and Associate Professor
Cynthia Harrison to the Committee on Professional Ethics and
Academic Freedom Committee**

**(b) Report of the Executive Committee: Professor Lilien F. Robinson,
Chair**

(c) Interim Reports of Senate Committee Chairs

6. Tribute

7. Brief Statements (and Questions)

8. Adjournment



Brian Selinsky
Secretary

**A RESOLUTION TO ENDORSE A REVISED UNIVERSITY COPYRIGHT
POLICY (98/4)**

**WHEREAS, it is in the best interest of The George Washington University
to have a policy on copyrights; and**

WHEREAS, the current policy, adopted in 1990, is outdated; and

**WHEREAS, the Advisory Council on Research, the Faculty Senate
Committee on Research, and the Faculty Senate Ad Hoc
Committee on Copyright Policy have reviewed and approved
the attached revised policy; NOW, THEREFORE**

**BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE
WASHINGTON UNIVERSITY**

- (1) That the Senate endorses the attached Copyright Policy;
and**
- (2) That the Senate recommends that, upon adoption by the
University, this policy be incorporated by reference to
the Faculty Handbook and that this policy be made
available through the Office of Sponsored Research
and the Medical Center's Office of Research; and**
- (3) That the Senate further recommends that, upon adoption
by the University, this policy be posted on the University
Web site, and noted in the appointment letters for all
faculty (full-time, part-time, and adjunct).**

**Faculty Senate Research Committee
Faculty Senate Ad Hoc Committee on Copyright Policy
September 25, 1998**

MEMORANDUM

TO: Professor Lilien F. Robinson
Chair, Faculty Senate Executive Committee

FROM: Professor Arthur E. Wilmarth, Jr. *A. E. W., Jr.*
Chair, Faculty Senate Ad Hoc Committee on Copyright Policy

RE: Proposed University Copyright Policy

DATE: September 22, 1998

I understand that Carol Sigelman, the Associate Vice President for Research and Graduate Studies, has sent you two copies of a revised draft of the proposed new Copyright Policy. The new Copyright Policy would replace, in its entirety, the University's existing Copyright Policy adopted on October 11, 1990. The revised draft sent to you by Associate Vice President Sigelman was agreed to by members of the Ad Hoc Committee at our last meeting on September 17th. One copy of the revised draft has been marked to show the changes that the Ad Hoc Committee made to the initial draft of March 20, 1998, which had been prepared by the University's Advisory Council on Research and reviewed by the Faculty Senate Committee on Research.

The revised draft of the Copyright Policy establishes a general presumption that faculty members will retain full ownership of copyright with respect to all works of authorship, including scholarly publications, instructional materials and works of artistic creation. See the Introduction (first paragraph) and Part 3 of the revised draft, dealing with "Category I" works of authorship. This general presumption of faculty ownership is subject to the following two exceptions:

(1) The University will have full ownership of the copyright if a particular work is treated as a "Work Made for Hire." In order for a faculty-authored work to fall within this category, the work must be specially commissioned by the University pursuant to a specific written agreement between the University and the faculty author. See Part 5 of the revised draft, dealing with "Category III" works of authorship.

(2) A faculty member is required to transfer the copyright for a work to the University if the faculty member's creation of the work has involved a "Substantial Use" of University resources. The "Substantial Use" exception is triggered only if the faculty author has used University resources in a manner which either (a) falls outside the scope of the faculty member's normal job responsibilities or (b) entails the use of University

resources that are not ordinarily available to all or virtually all faculty members with comparable status in the same School or Department. In the event of a required transfer of copyright under the "Substantial Use" exception, the faculty author and the University will share the royalties from the work in accordance with the same formula that is applied with respect to inventions assigned to the University under the University's Policy on Patents and Scholarly Works. See Part 4 of the revised draft, dealing with "Category II" works of authorship. (It should be noted that the term "Substantial Use" does not include the use of personal office space, local telephone, library resources and personal computer equipment incidental to outside consulting or professional activities that are permitted under Part II of the University's Policy on Conflicts of Interest.)

Section 6.5 requires the University administration and the Faculty Senate to review the Copyright Policy once every four years and to determine jointly whether the Policy should be modified. Jointly proposed modifications would be presented to the Board of Trustees for final approval. The revised draft would also amend Section XV of the Policy on Patents and Scholarly Works to establish a similar procedure for periodic review and modification of that Policy.

I would like to express my appreciation to Associate Vice President Sigelman, University Librarian Jack Siggins, and my faculty colleagues on the Ad Hoc Committee -- Professors John Carson, Kurt Darr, Walter Kahn, Roger Schechter and John Thomas -- for the very constructive and collegial manner in which the Committee conducted its deliberations on the Copyright Policy. I believe that the revised draft provides a fair and equitable treatment of copyright issues for both the University and its faculty.

Please let me know if you have any questions or would like me to provide any additional information regarding the work of the Ad Hoc Committee.

A.E.W., Jr.

cc: Associate Vice President Carol Sigelman

THE GEORGE WASHINGTON UNIVERSITY

COPYRIGHT POLICY

Revised and Re-Adopted by
The George Washington University Board of Trustees
_____, 1998

INTRODUCTION

The University encourages the creation and publication of scholarly, technical, literary and artistic works as part of its educational mission. Generally, when the Faculty, Librarians or Students, in pursuit of their normal scholarly, professional, or academic responsibilities, including normal use of the University's physical facilities, by their own initiative create copyrightable works, the copyright and any resulting royalties may be claimed by the Faculty, Librarian, or Student as author of the copyrighted work. However, when a work qualifies as a "Work Made for Hire" or when "Substantial Use" of University resources is involved, as defined in the policy below, the copyright in such work shall be owned by or transferred to the University. When Staff or Students create copyrightable works within the scope of their employment duties at the University, the copyright will generally belong to the University. For Faculty and Librarians, the University only claims ownership of the copyright if the work qualifies as a Work Made for Hire, or if the work's creation required Substantial Use of University resources.

Description of Federal Copyright Law

Under federal copyright law, copyright protection subsists in "original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device." The copyright exists from the moment of creation of the work. The following categories of material, whether published or unpublished, may be subject to copyright protection: (a) literary works, such as books, journal articles, textbooks, laboratory manuals, lectures, or computer programs; (b) musical works, including any accompanying words; (c) dramatic works, including any accompanying music; (d) pantomimes and choreographic works; (e) motion pictures and other audiovisual works, such as films, video-tapes, videodiscs or multimedia works; (f) pictorial, graphic, and sculptural works; (g) sound recordings, such as audiotapes, audio cassettes, phonorecords or compact discs; and (h) architectural works.

Copyright protection does not cover the ideas or concepts embodied in a work, but rather the manner of expression. In general, as the law exists in 1998, for works created after 1978 the term of the copyright is the life of the author plus 50 years, or in certain circumstances, the shorter of 75 years from the year of the first publication or 100 years from the year of creation. Subject to certain limitations, the owner of a copyright has the exclusive right to do and to authorize the following: (a) to reproduce copies of the copyrighted work; (b) to make derivative works based on the copyrighted work; (c) to distribute copies of the copyrighted work; (d) to perform the copyrighted work publicly; and (e) to display the copyrighted work publicly.

COPYRIGHT POLICY OF THE GEORGE WASHINGTON UNIVERSITY

1. DEFINITIONS

1.1 "Faculty" means all those individuals listed in Part I, Section B of the Faculty Code.

1.2 "Librarians" means all those individuals receiving a letter of appointment from the Vice President for Academic Affairs or that individual's designee to a professional librarian position, with or without compensation from the University, and whether full-time, research, part-time, visiting, or other status.

1.3 "Staff" means all those individuals, in graded or ungraded positions, or on wage account status, whether full-time, part-time, or other status, receiving compensation from the University as employees, other than Faculty and Librarians.

1.4 "Students" means all individuals associated with the University in active student status as defined by formal registration, or on approved leave of absence status, whether full-time or part-time, whether or not holding a fellowship, a teaching assistantship, a research assistantship, or equivalent award, and whether or not receiving salary, wages, or a stipend.

1.5 The terms "Sponsored Research" and "Sponsored Project" shall refer to research activities or other work performed by Faculty, Librarians, Staff or Students under sponsorship from any agency, party or parties external to the University, pursuant to an agreement between such agency or party and the University, which research activity or other work may result in the creation of copyrightable works.

2. SCOPE AND ORDER OF PRECEDENCE

2.1 Scope.

This Policy applies to all Faculty, Librarians, Staff and Students of the University.

2.2 Order of Precedence.

In case any individual subject to this Policy has dual or multiple status in more than one defined category, any questions under this Policy shall be determined under the provisions applicable to the status of the individual with respect to the activity in question, if that status is clear. In case of joint or unclear activity, the order of precedence shall be to apply the provisions applicable to Faculty, Librarians, Students and Staff in that order, and in case of any remaining doubt, questions shall be resolved in a manner that gives greater rights to the individual. Any disputes under this section, as for other disputes under this Policy, shall be resolved in accordance with Section 6.4 of this Policy.

3. CATEGORY I: INDIVIDUAL WORKS, THE COPYRIGHT OF WHICH WILL NORMALLY BELONG TO THE FACULTY, LIBRARIANS, STAFF OR STUDENTS OF THE UNIVERSITY

3.1 Scholarly Works.

a. The University makes no claim of ownership of copyright in works of authorship created by members of the University community, unless such works qualify as "Works Made for Hire" or involve "Substantial Use" of University resources as defined below, or unless such works are created within the scope of a Sponsored Project under an agreement which provides for ownership of copyright by the University or a third party, in which case the Sponsored Project agreement shall take precedence. Sponsored Research, without a specific agreement for copyright, shall be considered scholarly work and the copyright in such works shall belong to the author (s), not to the

University.

b. The University strongly encourages Faculty and Librarians who assign their copyright rights in scholarly publications to outside publishers to retain the royalty-free rights of reproduction and instructional use for themselves and for the University. Upon request, University administrators and legal counsel will provide assistance relating to assignment agreements and such retention-of-rights clauses.

3.2 Textbooks and Instructional Materials.

The University makes no claim of ownership of copyright in textbooks or other published instructional materials, including computer assisted and multimedia materials, unless said materials have been made with Substantial Use of University resources or qualify as Works Made for Hire as defined below.

3.3 Theses and Dissertations.

Copyright ownership in a thesis or dissertation prepared by a Student toward degree requirements shall remain with the Student, provided that, unless otherwise agreed in writing, by submitting the work for credit or degree requirements, the Student shall automatically be deemed to have granted a non-exclusive, worldwide, royalty-free license to the University (i) to make available for viewing to the University community through electronic or other means the entire thesis or dissertation; (ii) to make available to the broader public a limited number of copies of such thesis or dissertation, for which the University will make reasonable efforts not to reproduce and distribute in excess of ten copies per year of each such thesis or dissertation; and, (iii) to make a summary or abstract available to the University community and the public by electronic means without limitation on quantity of access or copying.

4. CATEGORY II: SHARED RIGHTS

4.1 Policy Statement on Prior Approval.

Faculty and Librarians may make Substantial Use of University resources in creating copyrightable works within the scope of their job duties, with any usual or necessary approvals relating to the resource usage. Staff and Students, and Faculty and Librarians intending to work outside the scope of their University duties, shall not make Substantial Use of University resources to create copyrightable works without advance permission from, and an appropriate written agreement signed by, the relevant Vice President or designee. Failure to obtain such approval shall cause any copyrightable work created to be treated pursuant to Section 4.2.

4.2 Works Made with "Substantial Use" of University Resources.

Ownership of copyright in materials created by Faculty, Librarians, Staff or Students with "Substantial Use" of University resources shall be transferred by the author(s) to the University in accordance with Section 4.4, unless the University agrees, in writing, to waive or alter its rights. Notwithstanding the foregoing sentence, a transfer of copyright ownership by a faculty author to the University shall not be required under this Section 4.2 and Section 4.4 if a work has been created with "Substantial Use" of University resources in accordance with the request or direction of the University, unless the faculty author and the University have entered into a specific written agreement governing copyright ownership with respect to the work.

4.3 Definition of Substantial Use.

"Substantial Use" of University resources is that use of University laboratory, studio, audio, audiovisual, video, television, broadcast, computer, computational or other facilities, resources and Staff or Students which: (i) falls outside the scope of the Faculty member's or Librarian's normal job responsibilities or the Student's academic program or (ii) entails a Faculty member's or Librarian's use of such resources that are not ordinarily available to all or virtually all Faculty members with comparable status in the same School or Department or to all or virtually all similarly situated Librarians. The term "Substantial Use" does not include the use of personal office space, local telephone, library resources and personal computer equipment incidental to outside consulting and other professional activities that are permitted under Part II of the University's Policy on Conflicts of Interest.

4.4 Transfer of Rights to University.

Where a work subject to copyright is created with Substantial Use of University resources as provided above, unless otherwise agreed in writing, each Faculty member, Librarian, Staff and Student author of such work shall execute an irrevocable written transfer, assignment or license to the University, in a form approved by the University, which provides for the following, unless otherwise disclosed by the Faculty member, Librarian, Staff or Student and, where relevant, agreed to by the University:

- a. that the author transfers all right, title and interest in and to the copyright to the University;
- b. that the work is an original work created by the author, that there are no known joint authors (or that any joint authors are or have been identified in writing to the University), and that the rights in such work have not been transferred, licensed or assigned to any other entity;
- c. that any preexisting materials, whether copyrighted or in the public domain, reflected in the subject work, are or have been identified in writing to the University;
- d. that the author shall not distribute any copies of the work without the University's permission and that any copies of the work distributed by or with the authority of the author shall bear an appropriate copyright notice, and notice of the University's interest therein; and
- e. that the author shall execute any further documents, and provide any additional information and cooperation necessary to obtain registration or deposit of the copyright, or to enforce the rights in the copyright.

4.5 Allocation of Royalties for Copyrights Transferred to the University.

Where ownership of a copyright is transferred to the University as provided in Section 4.4, unless otherwise agreed in writing, any income derived from publication, distribution, performance, display or sale of the work or derivative works, or licensing of any rights in the copyright, shall be allocated as follows:

- (a) University costs associated with registration or deposit of the copyright, and any costs incurred by the University in connection with publication, distribution, performance, display or sale of copies of the work or licensing or enforcement of any rights in the work shall first be reimbursed;
- (b) The remainder of any revenues after payment of the above costs shall be deemed "Net Income" and divided for the term of the copyright in the following manner:

Net Income Distribution

	Author	Author's Department	Author's School	Research Office*
First \$100,000/yr	50%	20%	10%	20%
Above \$100,000/yr	40%	20%	15%	25%

* Associate Vice President for Research and Graduate Studies (non medical) or Associate Vice President for Research (medical) -- to be used for the purpose of promoting scholarship in the University

5. CATEGORY III: WORKS MADE FOR HIRE, THE COPYRIGHT OF WHICH WILL NORMALLY BELONG TO THE UNIVERSITY

5.1 Ownership of Copyright in a "Work Made for Hire."

Copyright in a "Work Made for Hire" as defined below shall be owned by the University.

5.2 Definition of "Work Made for Hire."

A "Work Made for Hire" is:

(a) a work prepared by a Staff member or Student employed at the University within the scope of employment; or

(b) a specially-commissioned work created by a Faculty member or Librarian within the scope of employment, as set forth in a specific written agreement between the Faculty member or Librarian and the University.¹

5.3 Consideration for Works Made for Hire.

Where a work subject to copyright is created as a "Work Made for Hire" as defined above,

¹ Although not strictly within the scope of this Policy, under federal law and University practice a "work made for hire" may also include a work created by any non-employed individual that is specially ordered or commissioned by the University, and subject to a written agreement that it is a work made for hire, that is: (i) part of a contribution to a collective work; (ii) part of a motion picture or other audiovisual work; (iii) a translation; (iv) a supplementary work (meaning a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes and indexes); (v) a compilation; (vi) an instructional text (meaning a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities); (vii) a test, or answer material for a test; or (viii) as an atlas. It is the University's policy and practice to require transfer of copyright rights from third parties to the University for all such specially-ordered or commissioned works.

the normal salary or other remuneration paid to the Faculty member, Librarian, Staff member or Student shall ordinarily constitute full consideration for the creation of the copyrighted work, unless, for specially-commissioned works under section 5.2(b), additional consideration is agreed upon by an authorized University official in writing in advance.

6. COPYRIGHT ADMINISTRATION

6.1 Disclosure of Category II and Category III Copyrightable Materials.

Whenever any Student or Staff member intends to create a copyrightable work that is outside the scope of the academic program or employment of a Student or Staff member and that may involve Substantial Use of University resources, that person shall disclose such intent to the Associate Vice President for Research and Graduate Studies (non-medical) or to the Associate Vice President for Research for the Medical Center, or their designees, in the form and manner approved by the University, to obtain in advance a tentative decision of the relevant official on whether the work will be a Work Made for Hire or will involve Substantial Use of University resources. In addition, if at any time a Student, Staff member, Faculty member or Librarian creates a copyrightable work that is a Work Made for Hire or involves Substantial Use of University resources, and such work or use of University resources has not received advance approval from the appropriate official, or if the basis on which an advance approval was given has materially changed, the Student, Staff member, Faculty member or Librarian shall make a disclosure to and seek a decision from the appropriate official on whether creation of the work was a Work Made for Hire or involved Substantial Use of University resources. Failure to comply with this Section 6.1 may result in the forfeiture of the individual's rights under this policy. Such cases will be reviewed by the Associate Vice President for Research and Graduate Studies and additional sanctions consistent with other Faculty, Staff, Librarian or Student policies may be imposed in accordance with such policies.

6.2 Registration, Deposit, Disposition and Protection of Copyright.

Registration, deposit, disposition and protection of all copyrights owned by the University or in which the University has rights hereunder shall be accomplished in accordance with the University's directions, unless the University elects in writing to waive such rights with respect to any work and to transfer such rights to the author.

6.3 Copyright Administrator.

The Associate Vice President for Research and Graduate Studies shall be the Copyright Administrator for the University. The Copyright Administrator shall ensure that the University's Copyright Policy is enforced and will supervise the preparation of copyright registrations and deposits for Category II and Category III copyrightable works, maintain records, and provide advice to Faculty, Librarians, Staff and Students on copyrights and application of this policy.

6.4 Advisory Council.

The Advisory Council on Research will serve to assist the Copyright Administrator in the negotiation of copyright matters, the evaluation of ownership and the disposition of royalty income, primarily through its subcommittee, the Patent and Scholarly Works Review Panel. Disputes on copyright matters, including the interpretation of this Policy, shall be referred to the Patent and Scholarly Works Review Panel for review and recommendation. The Associate Vice President for

Research and Graduate Studies (nonmedical) or the Associate Vice President for Research for the Medical Center shall make a ruling on the dispute. Any appeal of a ruling by either official will be heard by the Vice President for Academic Affairs, who will then make the final ruling.

6.5 Periodic Review.

The University administration and the Faculty Senate shall review this policy at least once every four years and, following such review, shall jointly determine whether modifications to the policy are necessary or desirable to best serve the interests of the University and its Faculty and Librarians, Staff, and Students. Proposed amendments that result from such review and joint determination shall be presented by the Vice President for Academic Affairs to the Board of Trustees for final approval.

6.6 Reference to Official Titles.

Each reference in this Policy to the official title of a University official or body shall be deemed to include the successor to any such official or body.

Originally adopted by the Board of Trustees October 11, 1990

Revised _____, 1998

ADDITIONAL, PROPOSED CONFORMING CHANGES TO PATENT POLICY

1. Modify section VII.A on Scholarly Works, as follows:

All rights in scholarly books, articles and other publications, artistic creations, literary manuscripts, visual and auditory creations, and musical works, irrespective of their medium of storage or presentation, are granted to the faculty, librarians, staff and students who are the authors, except for "Works Made for Hire" and works made with "Substantial Use" of University resources (as such terms are defined in the University's Copyright Policy). The former items are meant to include computer programs, computer software, and databases that are accessory to or part of a scholarly text. Computer programs that are written for the primary purpose of educational learning and testing are excluded from classification as Inventions, Discoveries, Technologies, and Innovations. [See also The George Washington University Copyright Policy.]

2. Supplement definition in Section II of "Inventions", "Discoveries", "Technologies", and "Innovations" as follows:

"Inventions", "Discoveries", "Technologies", and "Innovations" are terms that are meant to cover tangible or intangible inventions, including any process, machine, manufacture, composition of matter, or improvement thereof, which is or may be patentable, whether or not reduced to practice. These terms are also meant to cover tangible research and development results whether or not patentable. Such results include, for example, computer programs, circuit designs of all types, data bases, technical and design drawings, biogenic materials, novel varieties of plants, chemically synthesized molecular systems, and other creations. Such tangible results may also be subject to the University Copyright Policy, and to the extent of any overlap, the intent is to treat such items first under the Patent Policy, and then if not patentable to treat them under the Copyright Policy.

3. Amend Section XIII as follows:

Disputes on patent matters, including the interpretation of this Policy on Patents and Scholarly Works, shall be referred to the Patent and Scholarly Works Review Panel for review and recommendation. Based on the Panel's recommendation, the Associate Vice President for Research and Graduate Studies (non medical) or the Associate Vice President for Research for the Medical Center shall make a ruling on the dispute. Any appeal of a ruling by either official will be heard by the Vice President for Academic Affairs, who will then make the final ruling.

4. Amend Section XV of the Patent Policy as follows:

The University administration and the Faculty Senate shall review this policy at least once every four years and, following such review, shall jointly determine whether modifications to the policy are necessary or desirable to best serve the interests of the University and its Faculty and Librarians, Staff, and Students. Proposed amendments that result from such review and joint determination shall be presented by The Vice President for Academic Affairs to the Board of Trustees for final approval.

5. Throughout, change Director of the Medical Center Office of Research to Associate Vice President for Research for the Medical Center.